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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,588	11/24/2003	Jeffrey Cooke	85272F-P	5019

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EXAMINER

KRUER, KEVIN R

ART UNIT PAPER NUMBER

1773

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Applicati n No. 10/720,588	Applicant(s) COOKE ET AL.	
	Examiner Kevin R Kruer	Art Unit 1773	

-- The MAILING DATE of this c mmunication appears on the c ver sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on October 20 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 1-7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restriction

1. Claims 1-7 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on October 20, 2004.

Claim Rejections - 35 USC § 102

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 8-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Smith (US 3,615,443).

Smith teaches a printing plate comprising a support, a hardened gelatin emulsion layer, and a reflecting layer between the emulsion and the support (abstract). The reflecting layer may comprise a gelatin binder (col 5, lines 56+) and is herein understood to read on the claimed gel coat of claim 13. The support may be aluminum, paper, or plastic and is herein understood to read on the claimed "opaque support layer" of claim 8. The emulsion layer is ink receptive (col 6, lines 65+).

The preamble limitation "display panel" is not considered to limit the structure of the claimed invention. MPEP 2111.02 states that a preamble is not considered a limitation and is of no significance to claim construction when the preamble merely states the purpose or intended use of the invention. With regard to the newly added limitation that the claimed laminate is "flexible," Smith teaches that the support should

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be "flexible (col 6, line 54)." Since the support is flexible, the laminate is herein understood to be inherently flexible to some extent.

4. Claims 8, 10, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 50023454A (herein referred to as Ibigawa)

Ibigawa teaches a substrate comprising 5 layers of kraft paper overlaid with a printed paper. The printed paper is subsequently overlaid with an overlay paper (abstract). Herein, the 5 layers of kraft paper read on the claimed "opaque support layer," the printed paper reads on the image receiving layer, and the overlay reads on the waterproof overcoat in so much that any layer is going to provide some level of water-proofing. With regard to the newly added limitation that the claimed laminate is flexible, the examiner takes the position that the laminate taught in Ibigawa is inherently flexible to some extent.

Claim Rejections - 35 USC § 103

5. Claims 8-13 under 35 U.S.C. 103(a) as being unpatentable over Tsubai et al (US 4,510,228) in view of Smith (US 3,615,443).

Tsubai teaches a photosensitive element for producing printing plates comprising a support, an undercoating layer, and at least one gelatin-containing layer including a silver halide emulsion layer (col 2, lines 60+). The support may comprise metals or papers (col 6, lines 14+) and is herein understood to read on the claimed "opaque support layer." Alternatively, the support may be a plastic film or a plastic coated paper (col 6, lines 14+), each of which is understood to read on the claimed "plastic material" of claim 11. The emulsion layer is herein understood to read on the "image carrying

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layer” and is understood to be “ink receiving” because Tsubai teaches the laminate may be used in printing (col 3, lines 31+). The undercoating layer may comprise gelatin and is herein understood to read on the claimed “gel coat” of claim 13.

The preamble limitation “display panel” is not considered to limit the structure of the claimed invention. MPEP 2111.02 states that a preamble is not considered a limitation and is of no significance to claim construction when the preamble merely states the purpose or intended use of the invention.

Tsubai does not teach that the printing plate should be flexible. However, Smith teaches that supports of printing plates are typically flexible (Col 6, lines 53+). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize a flexible support in the printing plate taught in Tsubai. The motivation for doing so would have been that Smith teaches that flexible supports are generally employed for printing plates.

With regard to claim 12, Tsubai teaches that the support may comprise a metal but does not specify that the metal may be aluminum. However, Smith teaches a lithographic printing plate wherein the base may be a flexible aluminum (col 2, lines 49+). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize aluminum as the metal base taught in Tsubai. The motivation for doing so would have been that Smith teaches that aluminum is a suitable metal base for a lithographic printing plate.

Response to Arguments

Applicant's arguments filed October 20, 2004 have been fully considered but they are not persuasive.

Applicant argues that Smith fails to anticipate the amended claims because Smith discloses a rigid printing plate. The examiner respectfully disagrees. Specifically, Smith teaches that the printing plate support should be flexible (col 6, lines 54+). Applicant similarly argues that the laminate of Ibigawa is drawn to a rigid panel. The examiner respectfully disagrees and maintains the rejection for the reasons noted above. Specifically, the rejection is maintained because the laminate taught in Ibigawa is understood to be inherently flexible to some extent.

Applicant further argues that the laminates taught in Smith, Ibigawa, and Tsubai are used in various applications that have nothing to do with media designed for direct viewing. It is believed that Applicant is arguing that the prior art fails to anticipate the preamble limitation "display panel." However, as noted in the Office Action of August 11, 2004, the preamble limitation "display panel" is not considered to limit the structure of the claimed invention. MPEP 2111.02 states that a preamble is not considered a limitation and is of no significance to claim construction when the preamble merely states the purpose or intended use of the invention. Applicant neither argues that the preamble limitation "display panel" structurally limits the claim nor explains why the applied art fails to meet said limitation. Therefore, the rejections are maintained.

Applicant's arguments with regard to Ormsbee failing to teach a "flexible" substrate are moot in view of the new grounds of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin R Kruer whose telephone number is 571-272-1510. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Deborah Jones can be reached on 571-272-1535. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kevin R. Kruer
Patent Examiner-Art Unit 1773